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AMENDMENTS TO LB 1139

1 1. Strike the original sections and insert the following
2 new sections:

3 "Section 1. Section 71-162, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 71-162. (1) It is the intent of the Legislature that the
6 revenue to cover the cost of the credentialing system administered
7 by the department is to be derived from General Funds, cash funds,
8 federal funds, gifts, grants, or fees from individuals or entities
9 seeking credentials. The credentialing system includes the
10 totality of the credentialing infrastructure and the process of
11 issuance and renewal of credentials, examinations, inspections,
12 investigations, continuing competency, compliance assurance, and
13 the credentialing review process for the following individuals and
14 entities that provide health services and health-related services:

15 (a) Individuals in the practice of acupuncture; advanced
16 practice nursing; asbestos abatement, inspection, project design,
17 and training; athletic training; audiology; speech-language
18 pathology; chiropractic; dentistry; dental hygiene; environmental
19 health; hearing aid instrument dispensing and fitting; lead-based
20 paint abatement, inspection, project design, and training; medical
21 nutrition therapy; medical radiography; medication aide services;
22 medicine and surgery; mental health practice; nursing; ~~nurse aide~~
23 nursing assistant or paid dining assistant services; nursing home
24 administration; occupational therapy; optometry; osteopathic

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1 medicine; pharmacy; physical therapy; podiatry; psychology; radon
2 detection, measurement, and mitigation; respiratory care; social
3 work; swimming pool operation; veterinary medicine and surgery;
4 water system operation; constructing or decommissioning water wells
5 and installing water well pumps and pumping equipment; and
6 wholesale drug distribution; and

7 (b) Individuals in the practice of and entities in the
8 business of cosmetology; electrology; emergency medical services;
9 esthetics; funeral directing and embalming; massage therapy; and
10 nail technology.

11 (2) The department shall determine the cost of the
12 credentialing system for such individuals and entities by
13 calculating the total of the base costs, the variable costs, and
14 any adjustments as provided in sections 71-162.01 to 71-162.03.

15 (3) When fees are to be established pursuant to section
16 71-162.04 for individuals or entities other than individuals in the
17 practice of constructing or decommissioning water wells and
18 installing water well pumps and pumping equipment, the department,
19 upon recommendation of the appropriate board if applicable, shall
20 base the fees on the cost of the credentialing system and shall
21 include usual and customary cost increases, a reasonable reserve,
22 and the cost of any new or additional credentialing activities.
23 For individuals in the practice of constructing or decommissioning
24 water wells and installing water well pumps and pumping equipment,
25 the Water Well Standards and Contractors' Licensing Board shall
26 establish the fees as otherwise provided in this subsection. All
27 such fees shall be collected as provided in section 71-163.

1 Sec. 2. Section 71-6038, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-6038. For purposes of sections 71-6038 to 71-6042,
4 ~~unless the context otherwise requires~~ and sections 7 to 11 of this
5 act:

6 (1) Complicated feeding problems include, but are not
7 limited to, difficulty swallowing, recurrent lung aspirations, and
8 tube or parenteral or intravenous feedings;

9 (2) Department ~~shall mean~~ means the Department of Health
10 and Human Services Regulation and Licensure; ~~and~~

11 ~~(2)~~ (3) Nursing assistant ~~shall mean~~ means any person,
12 ~~other than a licensed registered or practical nurse,~~ employed by a
13 nursing home for the purpose of aiding a licensed registered or
14 practical nurse through the performance of nonspecialized tasks
15 related to the personal care and comfort of residents other than a
16 paid dining assistant or a licensed registered or practical nurse;

17 (4) Nursing home means any facility or a distinct part of
18 any facility that provides care as defined in sections 71-420,
19 71-421, 71-422, 71-424, and 71-429; and

20 (5) Paid dining assistant means any person employed by a
21 nursing home for the purpose of aiding a licensed registered or
22 practical nurse through the feeding of residents other than a
23 nursing assistant or a licensed registered or practical nurse.

24 Sec. 3. Section 71-6039, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-6039. (1) No person shall act as a nursing assistant
27 in a nursing home unless such person:

1 ~~(1)~~ (a) Is at least sixteen years of age and has not been
2 convicted of a crime involving moral turpitude;

3 ~~(2)~~ (b) Is able to speak and understand the English
4 language or a language understood by a substantial portion of the
5 nursing home residents; and

6 ~~(3)~~ (c) Has successfully completed a basic course of
7 training approved by the department for nursing assistants within
8 one hundred twenty days of initial employment in the capacity of a
9 nursing assistant at any nursing home if employment begins after
10 January 1, 1984.

11 (2) The department may prescribe a curriculum for
12 training nursing assistants and may adopt and promulgate rules and
13 regulations for such courses of training. The content of the
14 courses of training and competency evaluation programs shall be
15 consistent with federal requirements unless exempted. The
16 department may approve courses of training if such courses of
17 training meet the requirements of this section. Such courses of
18 training shall include instruction on the responsibility of each
19 nursing assistant to report suspected abuse or neglect pursuant to
20 sections 28-372 and 28-711. Nursing homes may carry out approved
21 courses of training within the nursing home, except that nursing
22 homes may not conduct the competency evaluation part of the
23 program. The prescribed training shall be administered by a
24 licensed registered nurse.

25 ~~Prior to October 1, 1990, for nursing assistants at all~~
26 ~~nursing homes, and on and after such date for~~ (3) ~~For nursing~~
27 assistants at intermediate care facilities for the mentally

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1 retarded, such courses of training shall be no less than twenty
2 hours in duration and shall include at least fifteen hours of basic
3 personal care training and five hours of basic therapeutic and
4 emergency procedure training, and ~~on and after October 1, 1990,~~ for
5 nursing assistants at all nursing homes other than intermediate
6 care facilities for the mentally retarded, such courses shall be no
7 less than seventy-five hours in duration.

8 (4) This section shall not prohibit any facility from
9 exceeding the minimum hourly or training requirements.

10 Sec. 4. Section 71-6040, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-6040. The ~~Department of Health and Human Services~~
13 ~~Regulation and Licensure~~ department shall approve all courses,
14 lectures, seminars, course materials, or other instructional
15 programs used to meet the requirements of sections 71-6038 to
16 71-6042 and sections 7 to 11 of this act.

17 Sec. 5. Section 71-6041, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 71-6041. To protect the health, safety, and welfare of
20 nursing home residents and the public, the ~~Department of Health and~~
21 ~~Human Services Regulation and Licensure~~ department shall adopt and
22 promulgate such rules and regulations as are necessary for the
23 effective administration of sections 71-6038 to 71-6042 and
24 sections 7 to 11 of this act. Such rules and regulations shall be
25 consistent with federal requirements developed by the United States
26 Department of Health and Human Services.

27 Sec. 6. Section 71-6042, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-6042. The department shall have the authority to
3 enforce sections 71-6038 to 71-6042 and sections 7 to 11 of this
4 act and ~~such~~ rules and regulations adopted ~~thereto~~ under section
5 71-6041 by any of the following means: ~~denial~~ Denial, suspension,
6 restriction, or revocation of a nursing home's license, refusal of
7 the renewal of a nursing home's license, restriction of a nursing
8 home's admissions, or any other enforcement provision granted to
9 the department.

10 Sec. 7. No person shall act as a paid dining assistant
11 in a nursing home unless such person:

12 (1) Is at least sixteen years of age;

13 (2) Is able to speak and understand the English language
14 or a language understood by the nursing home resident being fed by
15 such person;

16 (3) Has successfully completed at least eight hours of
17 training as prescribed by the department for paid dining
18 assistants;

19 (4) Has no adverse findings on the Nurse Aide Registry or
20 the Adult Protective Services Central Registry; and

21 (5) Has no adverse findings on the central register
22 created in section 28-718 if the nursing home which employs such
23 person as a paid dining assistant has more than one resident under
24 the age of nineteen years.

25 Sec. 8. A paid dining assistant shall:

26 (1) Only feed residents who have no complicated feeding
27 problems as selected by the nursing home based on the resident's

1 latest assessment and plan of care and a determination by the
2 charge nurse that the resident's condition at the time of such
3 feeding meets that plan of care;

4 (2) Work under the supervision of a licensed registered
5 or practical nurse who is in the nursing home and immediately
6 available; and

7 (3) Call a supervisor for help in an emergency.

8 Sec. 9. (1) The department may prescribe a curriculum
9 for training paid dining assistants and may adopt and promulgate
10 rules and regulations for such courses of training. Such courses
11 shall be no less than eight hours in duration. The department may
12 approve courses of training for paid dining assistants that meet
13 the requirements of this section. Nursing homes may carry out
14 approved courses of training and competency evaluation programs at
15 the nursing home. Training of paid dining assistants shall be
16 provided by a licensed registered nurse.

17 (2) Courses of training and competency evaluation
18 programs for paid dining assistants shall include:

19 (a) Feeding techniques;

20 (b) Assistance with feeding and hydration;

21 (c) Communication and interpersonal skills;

22 (d) Appropriate responses to resident behavior;

23 (e) Safety and emergency procedures, including the
24 abdominal thrust maneuver;

25 (f) Infection control;

26 (g) Resident rights;

27 (h) Recognizing abnormal changes in resident behavior and

1 reporting such changes to a supervising nurse;

2 (i) Special needs; and

3 (j) Abuse and neglect, including the responsibility to
4 report suspected abuse or neglect pursuant to sections 28-372 and
5 28-711.

6 (3) This section shall not prohibit any facility from
7 exceeding the minimum hourly or training requirements.

8 Sec. 10. The department shall maintain a paid dining
9 assistant registry and shall include in the registry individuals
10 who have successfully completed a paid dining assistant course of
11 training and a competency evaluation program.

12 Sec. 11. Each nursing home shall maintain (1) a record
13 of all paid dining assistants employed by such facility, (2)
14 verification of successful completion of a training course for each
15 paid dining assistant, and (3) verification that the facility has
16 made checks with the Nurse Aide Registry, the Adult Protective
17 Services Central Registry, and the central register created in
18 section 28-718, if applicable under section 7 of this act, with
19 respect to each paid dining assistant.

20 Sec. 12. Section 81-3201, Revised Statutes Supplement,
21 2003, is amended to read:

22 81-3201. (1) The Governor shall appoint a Director of
23 Regulation and Licensure for the Department of Health and Human
24 Services Regulation and Licensure who shall (a) have administrative
25 experience in an executive capacity and some special training in
26 public health work and (b) be either a graduate of a recognized
27 school of medicine and licensed to practice medicine and surgery in

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1 the State of Nebraska or a person with a recognized and
2 demonstrated expertise in and knowledge of health and human
3 services delivery. The director shall report to the Governor and
4 serve full time at the pleasure of the Governor. The director
5 shall be subject to confirmation by a majority vote of the members
6 of the Legislature as provided in section 81-102.

7 (2) If the director appointed under subsection (1) of
8 this section is not a licensed physician, the Governor shall
9 appoint a chief medical officer to be responsible for oversight of
10 health issues for the Nebraska Health and Human Services System.
11 The chief medical officer shall report to the Governor and serve
12 full time at the pleasure of the Governor and shall be subject to
13 confirmation by a majority of the members of the Legislature. The
14 chief medical officer shall be a graduate of a recognized school of
15 medicine and licensed to practice medicine and surgery in the State
16 of Nebraska and have some special training in public health work.
17 If a chief medical officer is appointed, he or she shall perform
18 the duties under the Uniform Licensing Law specified in section
19 71-155.01 and shall be the final decisionmaker in contested cases
20 of (a) the health care facilities defined in the Health Care
21 Facility Licensure Act arising under the act and sections 71-6042
22 and 81-604.03 and (b) occupations ~~referenced in sections 71-6038~~
23 ~~and 71-6039~~ defined in subdivisions (3) and (5) of section 71-6038.

24 Sec. 13. Original sections 71-162 and 71-6038 to
25 71-6042, Reissue Revised Statutes of Nebraska, and section 81-3201,
26 Revised Statutes Supplement, 2003, are repealed.

27 Sec. 14. The following sections are outright repealed:

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- 1 Sections 71-6014 and 71-6015, Reissue Revised Statutes of Nebraska.
- 2 Sec. 15. Since an emergency exists, this act takes
- 3 effect when passed and approved according to law."